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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,154	05/31/2001	Howard A. Heller	2479.2091-000.	7439
24374 7590 10/31/2007 VOLPE AND KOENIG, P.C. DEPT. ICC UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER IQBAL, KHAWAR	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/871,154

**Applicant(s)**

HELLER ET AL.

**Examiner**

Khawar Iqbal

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,4,7,8 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,4,7,8 and 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2,4,7,8 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaheen et al. (20050048969) in view of Schneider et al. (20060114889) and Vikberg et al (20050239453).

Regarding claims 2,4,7,8 and 25-27, Shaheen discloses in a data communication system for transmitting data packets between a server and a wireless handset having a voice/data capability selectable between first and second operating modes, the system comprising, in combination, first and second wireless subsystems coupled to the server, the first wireless subsystem being operable in the first mode, the handset being initially in wireless communication with the first wireless subsystem in the first mode, a method of selecting the operating mode of the handset in connection with a handoff of the handset of the handset from the first wireless subsystem to the second wireless subsystem, which comprises the steps of:

associating, with the system, a data base containing data indicative of the operating mode capability of the subsystem; (pages 1-2 [0003] & [0020-0026] pages 3-4 [0039] and pages 4-5 [0047-0056] and see Fig. 2). Shaheen fails to explicitly disclose transmitting query messages on the system from the handset to the data base to

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retrieve such capability data; and transmitting query messages on the wireless subsystem from the handset to the database to retrieve the capability data; and operating the handset in the second mode if the retrieved capability data indicates that the subsystem is capable of operation in the second mode transmitting the capability data from the database to the handset in the first operating mode.

In a similar field of endeavor, Schneider discloses transmitting query messages on the system from the handset to the data base to retrieve such capability data; and transmitting query messages on the wireless subsystem from the handset to the database to retrieve the capability data; and operating the handset in the second mode if the retrieved capability data indicates that the subsystem is capable of operation in the second mode transmitting the capability data from the database to the handset in the first operating mode (see [0024,0036,0088]). At the time of the invention it would have been obvious to one of ordinary skill in the art to modify Shaheen to include querying the communication network for capability information for the purpose of allowing connection in a multiservice network. Shaheen and Schneider fail to explicitly disclose wherein the query messages contain information identifying the wireless subsystem to which the handset is then connected.

In a similar field of endeavor, Vikberg discloses wherein the query messages contain information identifying the wireless subsystem to which the handset is then connected (para. # 0040,0055-0056). Since Shaheen et al, Schneider et al and Vikberg et al are related to the method for determining location base information of the mobile station. Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify the device of Shaheen et al, Schneider et al by specifically adding feature messages contain information identifying the wireless subsystem to which the handset is then connected in order to enhance system performance to transmitting cell id to the network which improves handover procedure between two systems as taught by Vikberg.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 2,4,7,8 and 25-27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khawar Iqbal whose telephone number is 571-272-7909.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GEORGE ENG can be reached on (571) 272-7495. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*Khawar Iqbal*

  
GEORGE ENG  
SUPERVISORY PATENT EXAMINER